IN THE HIGH COURT OF JUDICAUTRE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3571 OF 2004

Shri. Pradeep Pandurang Dhondge ... Petitioner

Vs.

The State of Maharashtra and Ors. ... Respondents

Mr. N.V. Bandiwadekar for Petitioner.

Mrs. S.S. Bhende, A.G.P. for R. Nos. 1 and 2.

CORAM : F.I. REBELLO &
S.P. KUKDAY,JJ.
DATED : FEBRUARY 25, 2005

P.C.

. Rule. Heard forthwith.

. The Petitioner was appointed for the first time on 14.6.1999 as N.B.C. candidate. Approval was granted to him on 3.9.2001. That approval was cancelled on 13.8.2003 on the ground that there was backlog and he could not be considered. The Petitioner filed petition challenging the cancellation. The matter came up before this court for consideration. On remand the Deputy Director of Education, Nashik has disposed of the matter and has rejected the contention of the Petitioner. It is in these circumstances, that the Petitioner has filed the present petition.

. We have heard the learned counsel for the

parties as also the learned A.G.P. We find from the order impugned in Paragraph 8 that appointment against reserved category, the present percentage is 73% whereas for open category it is only 27%. This would be clearly contrary to Rule 9(7) of the M.E.P.S. Rules which provided for the maximum of 34% of reservation in appointment to schools and junior colleges. We have also noted the roster maintained by the respondent society. Even if the roster is considered, the seats reserved for open category are only 48 which is clearly contrary to rule 9(7) of the M.E.P.S. Rules. Considering the above position, the appointment of Petitioner cannot be said to be in excess of the quota for Non-backward candidates. In the light of that, we do not think that in this case we need to remand the matter as there are posts available and petitioner is occupying a post.

. Considering that, and as there are vacancies for N.B.C. candidates, rule made absolute in terms of Prayer Clauses (b) and (c). No order as to costs.

(F.I. REBELLO,J.)

(S.P. KUKDAY,J.)